

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
VICINAGE OF TRENTON

JOAN MULLIN, Administratrix of the	:	Hon. Mary L. Cooper, U.S.D.J.
ESTATE OF ROBERT MULLIN,	:	
Deceased, and JOAN MULLIN,	:	Civil Action 3:11-CV-0247-MLC-LHG
Individually,	:	
	:	
Plaintiffs,	:	
-vs.-	:	
	:	
ADMINISTRATOR KAREN BALICKI,	:	<b>CIVIL ACTION ANSWER TO THE</b>
et al.,	:	<b>4TH AMENDED COMPLAINT and</b>
	:	<b>JURY TRIAL DEMAND</b>
	:	
Defendants	:	

**ANSWER, CROSSCLAIMS, ANSWER TO CROSSCLAIMS, JURY DEMAND  
DEFENDANT OFFICER DIMLER.**

Defendant Officer Dimler ("Answering Defendant"), by way and through his undersigned counsel, hereby respond to the allegation set forth in the Plaintiff's Fourth Amended Complaint and by way of Answer to said complaint state:

**PARTIES**

1. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one, and leave plaintiff to her proofs.
2. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph two, and leave plaintiff to her proofs.
3. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph three, and leave plaintiff to her proofs.
4. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph four, and leave plaintiff to her proofs.

5. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph five, and leave plaintiff to her proofs.

6. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph six, and leave plaintiff to her proofs.

7. Answering Defendant admits that Officer Dimler was a corrections officer and employee of New Jersey Department of Corrections and was assigned to C.R.A.F. as a corrections officer. Answering Defendant makes no response to the remaining allegations contained in as same call for a legal conclusion.

8. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph eight, and leave plaintiff to her proofs.

9. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph nine, and leave plaintiff to her proofs.

10. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph ten, and leave plaintiff to her proofs.

#### **NATURE OF ACTION & FACTUAL BACKGROUND**

11. Answering Defendant admits Plaintiff's decedent was incarcerated and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph eleven, and leave plaintiff to her proofs.

12. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph twelve, and leave plaintiff to her proofs.

13. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirteen, and leave plaintiff to her proofs.

14. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph fourteen, and leave plaintiff to her proofs.

15. Answering Defendant lacks sufficient knowledge or information to form a belief as to the allegations contained in paragraph fifteen, and leave plaintiff to her proofs.

16. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph sixteen, and leave plaintiff to her proofs.

17. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph seventeen, and leave plaintiff to her proofs.

18. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph eighteen, and leave plaintiff to her proofs.

19. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph nineteen, and leave plaintiff to her proofs.

20. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph twenty, and leave plaintiff to her proofs.

21. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph twenty-one, and leave plaintiff to her proofs.

22. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in the allegations contained in paragraph twenty-two, and leave plaintiff to her proofs.

23. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in the allegations contained in paragraph twenty-three, and leave plaintiff to her proofs.

24. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in the allegations contained in paragraph twenty-four, and leave plaintiff to her proofs.

25. Answering Defendant admits that Officer Dimler was involved in assisting Plaintiff's decedent after he committed suicide and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph twenty-five, and leave plaintiff to her proofs.

26. Answering Defendant denies the allegations contained in paragraphs twenty-six, and leave plaintiff to her proofs.

27. Answering Defendant denies the allegations contained in paragraph twenty-seven, and leave plaintiff to her proofs.

28. Answering Defendant denies the allegations contained in paragraph twenty-eight, and leave plaintiff to her proofs.

29. Answering Defendant denies the allegations contained in paragraph twenty-nine, and leave plaintiff to her proofs.

30. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty, and leave plaintiff to her proofs.

31. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty-one, and leave plaintiff to her proofs.

32. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty-two, and leave plaintiff to her proofs.

33. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty-three, and leave plaintiff to her proofs.

34. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty-four, and leave plaintiff to her proofs.

35. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty-five, and leave plaintiff to her proofs.

36. Answering Defendant denies the allegations and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraphs contained in paragraph thirty-six, and leave plaintiff to her proofs.

37. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty-seven, and leave plaintiff to her proofs.

38. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty-eight, and leave plaintiff to her proofs.

39. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph thirty-nine, and leave plaintiff to her proofs.

40. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty, and leave plaintiff to her proofs.

41. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-one, and leave plaintiff to her proofs.

42. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-two, and leave plaintiff to her proofs.

43. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-three, and leave plaintiff to her proofs.

44. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-four, and leave plaintiff to her proofs.

45. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-five, and leave plaintiff to her proofs.

46. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-six, and leave plaintiff to her proofs.

47. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-seven, and leave plaintiff to her proofs.

48. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-eight, and leave plaintiff to her proofs.

49. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph forty-nine, and leave plaintiff to her proofs.

50. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph fifty, and leave plaintiff to her proofs.

51. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph fifty-one, and leave plaintiff to her proofs.

52. Answering Defendant denies the allegations contained in paragraph fifty-two, and leave plaintiff to her proofs.

53. Answering Defendant denies the allegations contained in paragraph fifty-three, and leave plaintiff to her proofs.

54. Answering Defendant denies the allegations contained in paragraph fifty-four, and leave plaintiff to her proofs.

55. Answering Defendant denies the allegations contained in paragraph fifty-five, and leave plaintiff to her proofs.

56. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph fifty-six, and leave plaintiff to her proofs.

57. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph fifty-seven.

58. Answering Defendant admits that Officer Dimler was involved in assisting Plaintiff's decedent after he committed suicide and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph fifty-eight, and leave plaintiff to her proofs.

59. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph fifty-nine, and leave plaintiff to her proofs.

60. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph sixty, and leave plaintiff to her proof.

61. Answering Defendant denies the allegations contained in paragraph sixty-one, and leave plaintiff to her proof.

62. Answering Defendant denies the allegations and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph sixty-two, and leave plaintiff to her proof.

63. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph sixty-three, and leave plaintiff to her proof.

64. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph sixty-four, and leave plaintiff to her proof.

65. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph sixty-five, and leave plaintiff to her proof.

66. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph sixty-six, and leave plaintiff to her proof.

67. Answering Defendant denies the allegations and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations in paragraph sixty-seven, and leave plaintiff to her proof.

68. Answering Defendant admits that Officer Dimler was acting within the scope of his employment and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph sixty-eight, and leave plaintiff to her proof.

69. Answering Defendant denies there is any basis for such claims against Officer Dimler and makes no response as to allegations asserted against other parties in paragraph sixty-nine, and leave plaintiff to her proof.

70. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph seventy, and leave plaintiff to her proof.

71. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph seventy-one, and leave plaintiff to her proof.

72. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph seventy-two, and leave plaintiff to her proof.

### **FIRST COUNT**

73. Answering Defendant repeats and reiterates his responses to each and every allegation contained in paragraphs one through seventy-two, inclusive, as if set forth at length herein.

74. Answering Defendant admits that Officer Dimler was acting within the course and scope of his employment with DOC and lacks sufficient knowledge or information to form a belief



as to the truth of the remaining allegations contained in paragraph seventy-four, and leave plaintiff to her proof.

75. Answering Defendant denies the allegations contained in paragraph seventy-five, and leave plaintiff to her proof.

76. Answering Defendant denies the allegations contained in paragraph seventy-six, and leave plaintiff to her proof.

77. Answering Defendant denies the allegations contained in paragraph seventy-seven, and leave plaintiff to her proof.

78. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph seventy-eight, and leave plaintiff to her proof.

79. Answering Defendant admits that Officer Dimler was acting within the scope of his employment with DOC and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph seventy-nine, and leave plaintiff to her proof.

80. Answering Defendant denies the allegations contained in paragraph eighty, and leave plaintiff to her proof.

81. Answering Defendant denies the allegations contained in paragraph eighty-one, and leave plaintiff to her proof.

82. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph eight-two, and leave plaintiff to her proof.

83. Answering Defendant denies the allegations contained in paragraph eighty-three, and leave plaintiff to her proof.

84. Answering Defendant denies the allegations contained in paragraph eighty-four, and leave plaintiff to her proof.

85. Answering Defendant denies the allegations contained in paragraph eighty-five, and leave plaintiff to her proof.

86. Answering Defendant denies the allegations contained in paragraph eighty-six, and leave plaintiff to her proof.

87. Answering Defendant denies the allegations contained in paragraph eighty-seven, and leave plaintiff to her proof.

88. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph eighty-eight, and leave plaintiff to her proof.

89. Answering Defendant denies the allegations contained in paragraph eighty-nine, and leave plaintiff to her proof.

90. Answering Defendant denies the allegations contained in paragraph ninety, and leave plaintiff to her proof.

91. Answering Defendant denies the allegations contained in paragraph ninety-one, and leave plaintiff to her proof.

92. Answering Defendant denies the allegations contained in paragraph ninety-two, and leave plaintiff to her proof.

93. Answering Defendant denies the allegations contained in paragraph ninety-three, and leave plaintiff to her proof.

94. **WHEREFORE**, Answering Defendant demands judgment against the Plaintiff for dismissal of the Fourth Amended Complaint with prejudice, costs, fees and such other and further relief as the Court deems just.

**SECOND COUNT**

95. Answering Defendant repeats and reiterates his responses to each and every allegation contained in paragraphs one through ninety-four, inclusive, as if set forth at length herein.

96. Answering Defendant denies the allegations contained in paragraph ninety-six, and leave plaintiff to her proof.

97. Answering Defendant denies the allegations contained in paragraph ninety-seven, and leave plaintiff to her proof.

98. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph ninety-eight, and leave plaintiff to her proof.

99. Answering Defendant denies the allegations contained in paragraph ninety-nine, and leave plaintiff to her proof.

100. Answering Defendant denies the allegations contained in paragraph one hundred, and leave plaintiff to her proof.

101. Answering Defendant denies the allegations contained in paragraph one hundred one, and leave plaintiff to her proof.

102. Answering Defendant denies the allegations contained in paragraph one hundred two, and leave plaintiff to her proof.

103. Answering Defendant denies the allegations contained in paragraph one hundred three, and leave plaintiff to her proof.

104. **WHEREFORE**, Answering Defendant demands judgment against the Plaintiffs for dismissal of the Fourth Amended Complaint with prejudice, costs, fees and such other and further relief as the Court deems just.

**THIRD COUNT**

105. Answering Defendant repeats and reiterates his responses to each and every allegation contained in paragraphs one through one hundred four, inclusive, as if set forth at length herein.

106. Answering Defendant admits that Officer Dimler had a duty to act reasonably in fulfilling his responsibilities and lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph one hundred five, and leave plaintiff to her proof.

107. Answering Defendant admits the allegations contained in paragraph one hundred seven, and leave plaintiff to her proof.

108. Answering Defendant denies the allegations contained in paragraph one hundred eight, and leave plaintiff to her proof.

109. Answering Defendant denies the allegations contained in paragraph one hundred nine, and leave plaintiff to her proof.

110. Answering Defendant denies the allegations contained in paragraph one hundred ten, and leave plaintiff to her proof.

111. Answering Defendant denies the allegations contained in paragraph one hundred eleven, and leave plaintiff to her proof.

112. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred twelve, and leave plaintiff to her proof.

113. Answering Defendant denies the allegations contained in paragraph one hundred thirteen, and leave plaintiff to her proof.

114. Answering Defendant denies the allegations contained in paragraph one hundred fourteen, and leave plaintiff to her proof.

115. Answering Defendant denies the allegations contained in paragraph one hundred fifteen, and leave plaintiff to her proof.

116. Answering Defendant denies the allegations contained in paragraph one hundred sixteen, and leave plaintiff to her proof.

117. Answering Defendant denies the allegations contained in paragraph one hundred seventeen, and leave plaintiff to her proof.

118. **WHEREFORE**, Answering Defendant demands judgment against the Plaintiff for dismissal of the Fourth Amended Complaint with prejudice, costs, fees and such other and further relief as the Court deems just.

#### **FOURTH COUNT**

119. Answering Defendant repeats and reiterates his responses to each and every allegation contained in paragraph one through one hundred eighteen, inclusive, as if set forth at length herein.

120. Answering Defendant denies the allegations contained in paragraph one hundred twenty, and leave plaintiff to her proof.

121. Answering Defendant denies the allegations contained in paragraph one hundred twenty-one, and leave plaintiff to her proof.

122. Answering Defendant denies the allegations contained in paragraph one hundred twenty-two, and leave plaintiff to her proof.

123. Answering Defendant denies the allegations contained in paragraph one hundred twenty-three, and leave plaintiff to her proof.

124. Answering Defendant denies the allegations contained in paragraph one hundred twenty-four, and leave plaintiff to her proof.

125. Answering Defendant denies the allegations contained in paragraph one hundred twenty-five, and leave plaintiff to her proof.

126. Answering Defendant denies the allegations contained in paragraph one hundred twenty-six, and leave plaintiff to her proof.

127. Answering Defendant denies the allegations contained in paragraph one hundred twenty-seven, and leave plaintiff to her proof.

128. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred twenty-eight, and leave plaintiff to her proof.

129. Answering Defendant denies the allegations contained in paragraph one hundred twenty-nine, and leave plaintiff to her proof.

130. Answering Defendant denies the allegations contained in paragraph one hundred thirty, and leave plaintiff to her proof.

131. Answering Defendant denies the allegations contained in paragraph one hundred thirty-one, and leave plaintiff to her proof.

132. Answering Defendant denies the allegations contained in paragraph one hundred thirty-two, and leave plaintiff to her proof.

133. Answering Defendant denies the allegations contained in paragraph one hundred thirty-three, and leave plaintiff to her proof.

134. **WHEREFORE**, Answering Defendant demands judgment against the Plaintiff for dismissal of the Fourth Amended Complaint with prejudice, costs, fees and such other and further relief as the Court deems just.

**FIFTH COUNT**

135. Answering Defendant repeats and reiterates his responses to each and every allegation contained in paragraph one through one hundred thirty-four, inclusive, as if set forth at length herein.

136. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred thirty-six, and leave plaintiff to her proof.

137. Answering Defendant denies the allegations contained in paragraph one hundred thirty-seven, and leave plaintiff to her proof.

138. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred thirty-eight, and leave plaintiff to her proof.

139. Answering Defendant denies the allegations contained in paragraph one hundred thirty-nine, and leave plaintiff to her proof.

140. Answering Defendant denies the allegations contained in paragraph one hundred forty, and leave plaintiff to her proof.

141. Answering Defendant denies the allegations contained in paragraph one hundred forty-one, and leave plaintiff to her proof.

142. Answering Defendant denies the allegations contained in paragraph one hundred forty-two, and leave plaintiff to her proof.

143. Answering Defendant denies the allegations contained in paragraph one hundred forty-three, and leave plaintiff to her proof.

144. **WHEREFORE**, Answering Defendant demands judgment against the Plaintiff for dismissal of the Fourth Amended Complaint with prejudice, costs, fees and such other and further relief as the Court deems just.

**SIXTH COUNT**

145. Answering Defendant repeats and reiterates his responses to each and every allegation contained in paragraph one through one hundred forty-four, inclusive, as if set forth at length herein.

146. Answering Defendant denies the allegations contained in paragraph one hundred forty-six, and leave plaintiff to her proof.

147. Answering Defendant denies the allegations contained in paragraph one hundred forty-seven, and leave plaintiff to her proof.

148. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred forty-eight, and leave plaintiff to her proof.

149. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred forty-nine, and leave plaintiff to her proof.

150. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty, and leave plaintiff to her proof.



151. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-one, and leave plaintiff to her proof.

152. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-two, and leave plaintiff to her proof.

153. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-three, and leave plaintiff to her proof.

154. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-four, and leave plaintiff to her proof.

155. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-five, and leave plaintiff to her proof.

156. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-six, and leave plaintiff to her proof.

157. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-seven, and leave plaintiff to her proof.

158. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-eight, and leave plaintiff to her proof.

159. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred fifty-nine, and leave plaintiff to her proof.

160. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred sixty, and leave plaintiff to her proof.

161. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred sixty-one, and leave plaintiff to her proof.

162. Answering Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph one hundred sixty-two, and leave plaintiff to her proof.

163. **WHEREFORE**, Answering Defendant demands judgment against the Plaintiffs for dismissal of the Fourth Amended Complaint with prejudice, costs, fees and such other and further relief as the Court deems just.

**AFFIRMATIVE DEFENSES**

**FIRST SEPARATE DEFENSE**

At all times relevant hereto, Answering Defendant has acted in good faith and without fraud or malice.

**SECOND SEPARATE DEFENSE**

Answering Defendants have not deprived plaintiff of any right, privilege or immunity secured to her by the New Jersey or United States Constitutions or any Act of Congress or the Legislature of New Jersey.

**THIRD SEPARATE DEFENSE**

Answering Defendants have not deprived plaintiff of any right, privilege or immunity secured to her by the New Jersey or United States Constitutions or any Act of Congress or the Legislature of New Jersey.

**FOURTH SEPARATE DEFENSE**

The Complaint fails to state a claim against Answering Defendant upon which relief may be granted.

**FIFTH SEPARATE DEFENSE**

Answering Defendant is immune from suit.

**SIXTH SEPARATE DEFENSE**

The injuries and damages alleged by Plaintiff were the result of the decenden's pre-existing condition.

**SEVENTH SEPARATE DEFENSE**

Answering Defendant is official of an agency of the State of New Jersey and at all relevant times were performing acts within the scope of their official duties in good faith without fraud or malice, and are immune from any liability sought to be imposed upon them based upon the doctrine of qualified immunity.

**EIGHTH SEPARATE DEFENSE**

No agency relationship existed between Answering Defendant and any other party to this proceeding and therefore Answering Defendant has no vicarious liability by reason of the act or omission of any other party.

**NINTH SEPARATE DEFENSE**

The theory of Respondeat Superior cannot be utilized in § 1983 actions.

**TENTH SEPARATE DEFENSE**

Plaintiff's claims are barred by the applicable Statute of Limitations.

**ELEVENTH SEPARATE DEFENSE**

This suit is barred by the Eleventh Amendment.

**TWELFTH SEPARATE DEFENSE**

The complaint is barred by the doctrine of res judicata and/or collateral estoppel.

**THIRTEENTH SEPARATE DEFENSE**

Recovery is barred in this action by reason of the applicable statutes of limitations.

**FOURTEENTH SEPARATE DEFENSE**

The New Jersey Tort Claims Act ( N.J.S.A. 59:1-1, *et seq.*), including but not limited to the following: N.J.S.A. 59:2-3 and 5:3-2; N.J.S.A. 59:2-4, 59:3-3 and 59:3-5; N.J.S.A. 59:2-5 and 59:3-6; N.J.S.A. 59:2-6 and 57:3-7; N.J.S.A. 59:5-1; N.J.S.A. 59:5-3; N.J.S.A. 59:5-4; N.J.S.A. 59:6-3; N.J.S.A. 59:6-4 and N.J.S.A. 59:10-1 *et seq.* bars recovery for this action.

**FIFTEENTH SEPARATE DEFENSE**

This claim is barred by reason of the failure to comply with the notice provisions of the Tort Claims Act, more specifically, N.J.S.A. 59:8-1 through 8-11.

**SIXTEENTH SEPARATE DEFENSE**

Answering Defendant is not guilty of negligence and violated no duty to plaintiff.

**SEVENTEENTH SEPARATE DEFENSE**

Answering Defendant has not deprived Plaintiff of any right, privilege or immunity secured to them by the United States Constitution or any Act of Congress.

**EIGHTEENTH SEPARATE DEFENSE**

Answering Defendant has not deprived Plaintiff of any right, privilege or immunity secured to them by the Constitution and laws of the State of New Jersey.

**NINETEENTH SEPARATE DEFENSE**

Answering Defendant is immune from suit based upon the Doctrine of Sovereign immunity.

**TWENTIETH SEPARATE DEFENSE**

Negligence, if any, on the part of the Answering Defendant is not the proximate cause of any injuries which may have been sustained by plaintiff.

**TWENTY-FIRST SEPARATE DEFENSE**

Damages, if any, were the result of plaintiff's own actions and/or inactions.

**TWENTY-SECOND SEPARATE DEFENSE**

Damages, if any sustained by the plaintiff, were the result of the actions of persons and/or entities over whom the Answering Defendant had no control.

**TWENTY-THIRD SEPARATE DEFENSE**

The Plaintiff has failed to exhaust administrative remedies, pursuant to the Prison Litigation Reform Act, 42 U.S.C. § 1997e.

**TWENTY-FOURTH SEPARATE DEFENSE**

Answering Defendant is not a person capable of being sued within the meaning of 42 U.S.C. § 1983.

**TWENTY-FIFTH SEPARATE DEFENSE**

Answering Defendant is immune from civil liability for any damages the Plaintiff may seek pursuant to N.J.S.A. 30:4-16.

**TWENTY-SIXTH SEPARATE DEFENSE**

Answering Defendant is entitled to all affirmative defenses available pursuant to the Prison Litigation Reform Act, 42 U.S.C. § 1983, and 42 U.S.C. § 1997e.

**TWENTY-SEVENTH SEPARATE DEFENSE**

Answering Defendant reserves the right to interpose each and every such other separate defense that continuing investigation and discovery may indicate.

**TWENTY-EIGHTH SEPARATE DEFENSE**

Answering Defendant is not liable for injuries resulting from discretionary activities pursuant to N.J.S.A. 59:2-3.

**TWENTY-NINTH SEPARATE DEFENSE**

Answering Defendant is not liable for their adoption of or failure to adopt any law or by their failure to enforce any law pursuant to the provisions of N.J.S.A. 59:3-5.

**THIRTIETH SEPARATE DEFENSE**

Any liability that might otherwise be imposed upon Answering Defendant pursuant to N.J.S.A. 59:1-1, et seq. is subject to reduction by the limitations of proportionate liability set forth in N.J.S.A. 59:9-3.1.

**THIRTY-FIRST SEPARATE DEFENSE**

Any liability that might otherwise be imposed upon Answering Defendant pursuant to N.J.S.A. 59:1-1, et seq. is subject to reduction by the comparative negligence provisions set forth in N.J.S.A. 59:9-4.

**THIRTY-SECOND SEPARATE DEFENSE**

Any recovery to which plaintiff may be entitled against the Answering Defendant pursuant to N.J.S.A. 59:1-1, et seq. is subject to the limitations and reductions on damages set forth in N.J.S.A. 59:9-2.

**THIRTY-THIRD SEPARATE DEFENSE**

Answering Defendant is subject to the immunities and the defenses provided by N.J.S.A.

59:2-1.

**THIRTY-FOURTH SEPARATE DEFENSE**

Any actions taken by Answering Defendant was in the nature of discretionary activity within the meaning of N.J.S.A. 59:3-2, and accordingly, no liability may be imposed upon defendants

**THIRTY-FIFTH SEPARATE DEFENSE**

Recovery may be barred in this action by reason of a prior judgment or settlement arising out of the same transaction as set forth in N.J.S.A. 59:9-6.

**THIRTY-SIXTH SEPARATE DEFENSE**

This action is so lacking in fact-based merit as to warrant dismissal with prejudice.

**THIRTY-SEVENTH SEPARATE DEFENSE**

The complaint and the proceedings resulting therefrom and any recovery resulting therefrom are barred, limited and/or controlled by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq.

**THIRTY-EIGHTH SEPARATE DEFENSE**

This suit is barred by laches.

**THIRTY-NINTH SEPARATE DEFENSE**

Plaintiff's claims must be dismissed because Answering Defendants committed no violation of public policy.

**FORTIETH SEPARATE DEFENSE**

Plaintiff cannot make out a prima facie case interference with prospective economic advantage because no facts exist to support such a claim.

### **RESERVATION OF RIGHTS**

Answering Defendant reserves the right, at or before trial, to move to dismiss the complaint and/or for summary judgment, on the ground that the complaint fails to state a claim upon which relief can be granted and/or the defendants are entitled to judgment as a matter of law, based on any or all of the above defenses.

### **DEMAND FOR STATEMENT OF DAMAGES**

Pursuant to Rule 4:5-2, Answering Defendant demands that within five (5) days of service hereof, Plaintiff serve upon the undersigned a written statement of the amount of damages claimed in each Count of the Complaint.

### **CROSSCLAIM FOR CONTRIBUTION AND INDEMNIFICATION**

While denying any responsibility for liability to the Plaintiff, Answering Defendant crossclaims against all other defendants, presently or hereafter named, for contribution and/or indemnification pursuant to the New Jersey Joint Tortfeasor Contribution Law, N.J.S.A. 2A: 52A-1 et. seq.; the New Jersey Comparative Negligence Law, N.J.S.A. 2A: 15-5.1 et.seq., and R. 4:7-5(b), for any sums which may be recovered by plaintiff against these Defendants on the basis that such liability is the responsibility of the other defendants joined herein.

**WHEREFORE**, Answering Defendant demand judgment for contribution and/or indemnification against all defendants presently or hereafter named in the within action.

### **ANSWER TO CROSSCLAIMS**

Answering Defendant denies all allegations set forth in any crossclaims filed by any defendant or third party defendant presently or hereafter named herein.



**DEMAND FOR AFFIDAVIT OF MERIT**

Pursuant to N.J.S.A. 2 A: 53:A- 27, Answering Defendant demands that within sixty (60) days following the date of this Answer, Plaintiffs serve and file an Affidavit of Merit.

**JURY DEMAND**

Answering Defendant hereby demands a trial by jury on all issues.

**DESIGNATION OF TRIAL COUNSEL**

The Court is hereby advised that Christine H. Kim, Deputy Attorney General, is hereby designated as trial counsel for defendants in this action.

**CERTIFICATION**

Undersigned counsel hereby certifies, in accordance with L. Civ. R. 11.2, that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to defendants at this time, nor is any non-party known to defendants at this time who should be joined in this action, or who is subject to joinder.

Respectfully submitted,  
JEFFREY S. CHIESA  
ATTORNEY GENERAL OF NEW JERSEY

By: *s/Christine H. Kim*  
Christine H. Kim  
Deputy Attorney General

Dated: April 8, 2013